Supreme Court, U.S.
FILED

03 818 JUN 19 2003

NO._____

IN THE

**SUPREME COURT of the UNITED STATES**

Robert G. Gallagher a/k/a Bobby Freeman

Petitioner,

v.

Dale G. Massad

Responsent

On Petition for Writ of Certiorari
To The **(Supreme Court of the United States)**

# PETITION FOR WRIT OF CERTIORARI

Robert G. Gallagher
a/k/a Bobby Freeman
1605 No. Germantown Pkwy
#111-228
Cordova, TN 38016
(901) 537-4260
Petitioner in persona propria

## QUESTIONS PRESENTED

### I

Did Petitioner, Gallagher, suffer a breach of basic constitutional right to a jury trial when Judge Charles Cope arbitrarily denied Petitioner's demand for said process?

### II

Was Judge Charles Cope bias in showing partiality to Plaintiff, Massad and his then attorney, James A. Helinger,Jr., and by issuing a civil-fraud judgment without documentation.

### III

Why did Judge Cope sign an order on November 16,2000 for a non-jury trial on December 11,2000? Why did Judge Cope deny Gallagher's motion for continuance and telephonic hearing?

### IV

Why did the Florida Second District Court of Appeal not address all the issues, especially Gallagher being denied a jury-trial?

### V

Why did the Supreme Court of Florida deny Gallagher's petition for review, when they had final ruling over Judge Copes' hearing over his public intoxication and improper sexual conduct?

## PARTIES TO PROCEEDINGS

Dale G. Massad

Plaintiff

Robert G. Gallagher
a/k/a Bobby Freeman

Defendant

Judge Charles Cope

Presiding Judge

Anne Yaro

Witness for Defendant

Rainy Massad

Hearsay witness for Plaintiff

## TABLE OF CONTENTS

Questions Presented.....i

Parties to Proceeding.....ii

Petition for Writ of Certiorari.....1

Statement of Case
Denied Jury Trial.....2

Civil-Fraud Judgment on Hearsay Testimony
.....2,3

Documentation & Jurisdiction Questionable.....3

Prejudice.....3,4

Importance to the Public.....4

Reasons to Grant this Writ.....4

Appendix.....A, B.

Certificate of Service .....Separate

NO.____

In The

SUPREME COURT OF THE UNITED STATES

Robert G. Gallagher a/k/a Bobby Freeman

Petitioner,

v.

Dale G. Massad

Respondent

On Petition for Writ of Certiorari
To the **Supreme Court of the United States**

PETITION FOR WRIT OF CERTIORARI

Circuit Court, Pinellas County, Florida
Civil Division Case No. 99-100-CI-20

Florida Second District Court of Appeal
Case No. 2D01-617

Supreme Court of Florida
Case No. SC02-2517

Petitioner, Gallagher respectfully petitions for a writ of certiorari to review the judgment of Circuit Court, Pinellas County, Florida, Florida Second District Court of Appeal and Supreme Court of Florida.

## STATEMENT OF CASE

## DENIED JURY TRIAL

Petitioner, Gallagher requested and demanded a jury trial because he felt he could not get a fair trial under the presiding judge, Judge Charles Cope. The judge was incline to show prejudice in favor of Massad and his then attorney James Helinger from the onset and continued to do so.

The Judge indicated that Gallagher was guilty in first hearing. Judge Cope was quoted in the St. Petersburg Times (Sep. 24'00) edition "indicating that Massad had been defrauded".

November 16,2000, Judge Cope signed order for a non-jury trial on December 11,2000. Gallagher was not notified of this date, nor was this date cleared through him. Gallagher learned of this non-jury trial when calling the clerk of the court to check on the status of the case. Gallagher immediately filed a motion for a continuance for January 2001, as it was contractually, financially & medically impossible to make that court date on short notice. Gallagher sent a letter from the oral surgeon stating that he was having emergency oral surgery, with explanation that he had contract from December 12,2000 to January 14,2001 in Laughlin, NV and on that short notice the airfare was $2,000. a person. Judge Cope not only denied this motion to continue, he denied a telephonic hearing.

## CIVIL-FRAUD JUDGMENT ON HEARSAY TESTIMONY

Judge Cope accepted hearsay testimony from the Plaintiffs' son, Rainey Massad. The judge did not accept the testimony of actual witness, Anne Yaro, Massad's ex-live-in girlfriend.

## DOCUMENTION & JURISDICTION QUESTIONABLE

Again the judge issued judgment on hearsay testimony & not the actual witness, Anne Yaro. A blank promissory note where Plaintiff signed as guarantor was accepted as evidence. The judge assumed personal jurisdiction when there was no transactions in Florida as testified by Anne Yaro.

## PREJUDICE

The judge decided that Gallagher was not a creditable witness because he was a convicted felon, for being involved 15 years ago with a stolen vehicle, he paid his debt to society and will continue to do so the rest of his life. Judge Cope favored Massad & his attorney at that time, Helinger. Judge Cope accepted Massad as a creditable witness when he has a very questionable past. Massad is not allowed to practice medicine anymore, he surrendered his medical license while under investigation, Dr. Zachaziak, FL Medical Board Chairman at the time was quoted "Massad is a serious threat to the public". This is not the only blemish on Massad 's record, there too much to mention.

Helinger, wrote Gallagher a very threatening letter, which Judge Cope defended Helinger feverishly and even went off the record to do so. Helinger has a past too, repeated problems with the Florida Bar Association, arrests, chemical abuse, victimizing women.

The ex-medical doctor, now politician, the attorney & Judge whom seem to have a very close bond with each other, all have similar charges against them. All three men have been known to abuse their power.

## IMPORTANCE TO THE PUBLIC

Petitioner, Gallagher, feels this case has importance to the public, as this bias judge is still on the bench judging people's lives, even though he has been arrested in Naples, FL for DUI, in Carmel, CA for alcohol related charges & victimizing a female. Both arrest occurred during a Judicial Conference. The hearing panel found Judge Cope guilty of public intoxication and improper sexual conduct, during the JQC proceedings. However the Florida Supreme Court had final word, and he is now judging Family Court.
NOTE: November 2003 issue of Reader's Digest is quoted that Judge Charles Cope is one of three of America's Worst Judges.

## REASONS TO GRANT THIS WRIT

Gallagher, requested and demanded a jury-trial repeatedly and was denied that right. The lower court continually improperly and unlawfully denied the petitioner a jury trial. And in violation of the petitioner's due process rights under both the Florida and United states Constitutions. These issues were not addressed by The Second Court of Appeal, or Florida Supreme Court of Appeal.

Petitioner's review to the Florida Supreme Court was denied, this was during the same time period the Florida Supreme Court was ruling on Judge Copes' case.

## PETITIONER'S APPENDIX

Judgment signed on December 14, 2000
Circuit Court, Pinellas County, FL
Civil Division Case No. 99-100-CI-20

Decision of State Court of Appeals
Reproduced for page size A-1,2,3.

Decision of State Supreme Court
Denying review
Reproduced for page size B-1,2.

Attorney for Respondent
Dennis R. Pemberton
Harper, Kynes, Geller, Watson & Buford, P.A.
2560 Gulf to Bay Blvd. Suite 300
Clearwater, FL 33765
(727) 799-4840

Petitioner, in persona propria
Robert G. Gallagher
1605 No. Germantown Pkwy #111-228
Cordova, TN 38016
(901) 537-4260

Certificate of Service Separate from book

A-1
(REPRODUCED FOR PAGE SIZE)

DECISION: FL 2ND DISTRICT COURT OF APPEAL

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED

| | | |
|---|---|---|
| ROBERT G. GALLAGHER a/k/a BOBBY FREEMAN and BETTY PANNELL FRANKLIN, Appellants, | ) | CASE NO. 2D01-617 |
| v. | ) | |
| DALE G. MASSAD | ) | |
| Appelle. | ) | |

Opinion filed November 15, 2002

Appeal from the Circuit Court for Pinellas County;
Charles W. Cope, Judge

Robert G. Gallagher a/k/a Bobby Freeman and Betty Pannell Franklin, pro se.

Dennis R. Pemberton of
Harper, Kynes, Geller & Buford, P.A.
Clearwater, for Appellees.

Silberman, Judge.

Robert G. Gallagher and Betty Pannell Franklin appeal the final judgment in favor of Dale G. Massad. We reverse the final judgment to the extent that it awarded damages arising from a 1987 loan because enforcement of that loan was barred by the statue of limitations. We affirm without comment the other issues raised by Gallagher and Franklin.

In January 1999 Massad filed a complaint against Gallagher & Franklin for money lent. He later amended the complaint to add a claim for fraud. Massad's claim arose from series of five loans that he made to Gallagher and Franklin, totaling $78,856. One loan was made in January 1987 in the amount of $10,000. The other loans were made in 1997 and 1998. Massad alleged that each loan was to be repaid within ninety days from the date of the loan and that Gallagher & Franklin failed to repay any of the loans.

Although Gallagher and Franklin asserted that any claim relating to the 1987 loan was bared by the applicable statue of Limitations, the trial court entered judgment in favor of Massad on all claims. As a results, Gallagher and Franklin argue that the trial court erred by awarding damages for the 1987 loan.

The 1987 loan was not base on a written instrument; therefore, any lawsuit for money lent or for fraud had to commence within four years of when the cause of action accured. See95.031,95.11(3)(j),(k),Fla.Stat.(1987). Based on the record before us, it appears that Massad's cause of action accrued in 1987 but he did not file suit until 1999.

In his brief, Massad properly concedes that the time for commencing a lawsuit on the 1987 loan expired prior to the time he filed suit. Accordingly, we reverse the final judgment to the extent that it awarded $10,000. for the 1987 loan and prejudgment interest relating to that loan. On remand, the trial court shall enter an amended final judgment in favor of Massad omitting any award of damages arising from the 1987 loan.

Affirmed in part, reversed in part, and remanded.

ALTENBERND and FULMER,J.J.Concur.

---

We note that the final judgment contains a scrivener's error in that it refers to the 1987 loan as being made in 1997.

B-1
(REPRODUCED FOR PAGE SIZE)

SUPREME COURT OF FLORIDA
TUESDAY, MARCH 25, 2003

CASE NO.: SC02-2517
Lower Tribunal No.:2D01-617

ROBERT G. GALLAGHER vs. DALE G. MASSAD ETC.,ET AL.

Petitioner(s) Respondent(s)

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under ArticleV, Section 3(b), Florida Constitution. And the Court having determined that it should decline to accept jurisdiction, it is ordered that the Petition for Review is denied.

No. Motion for Rehearing will be entertained by the Court. SeeFla.R.App.P9.330(d).

WELLS,PARIENTE,LEWIS,QUINCE and CANTERO,JJ.Concur.

A True Copy
Test:

Thomas D. Hall
Clerk, Supreme Court

bh
Served:

ROBERT GALLAGHER
DENNIS R. PEMBERTON
HON. JAMES BIRKHOLD,CLERK
HON. CHARLES W. COPE, JUDGE
HON. KARLEEN F. DEBLAKER,CLERK